



## **The Town of Fenwick Island**

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### **REGULAR MEETING OF THE TOWN COUNCIL**

**Friday, July 28, 2023**

### **MEETING HELD VIA TELECONFERENCE**

### **MINUTES**

#### **In Attendance**

Town Council Members:

Mayor Magdeburger, Treasurer Rymer, Secretary Napolitano, Council Member Benn, Council Member Bishop, Council Member Bortner

Absent: Council Member Breger

Staff in Attendance:

Town Manager Schuchman, Police Chief Devlin, Building Official Locke, Finance Manager Gary, Town Administrator Menominee, Administrative Assistant Ellinger, Beach Patrol Captain Rykaczewski

Others in Attendance:

Along with the Town Council and Staff, there were an additional 25 in-person attendees and 17 Zoom participants.

#### **1. President's Report - Mayor Magdeburger**

Mayor Magdeburger that on Saturday evening Katcha Moore and her husband were on the beach at Houston Street, when her husband collapsed. 911 was called and Cpl. Nate Hudson, who was on the highway, responded with one of our new AEDs. Some unknown good Samaritans were already there doing CPR. Cpl. Hudson did rescue breaths, chest compressions and deployed the AED, which he had been trained to use by Captain Ryk. When the ambulance crew arrived, they took Mr. Moore to Beebe where it was learned that he had 100% blockage of one of the arteries to his heart. A stent was placed, and Mayor Magdeburger was pleased to report that Mr. Moore returned home yesterday, alive. The Moore family and the greater Fenwick Island family wish to thank Cpl. Hudson for his heroic response. To save a life is God's greatest gift and Cpl. Hudson, through his training and his response, was able to do just that.

Mayor Magdeburger also announced that Fenwick Island will have a new restaurant coming soon —Sodel has announced that it will be building and opening a Surf Bagel at the old DQ site. Congratulations to Balsamo Real Estate for partnering with Sodel.

Mayor Magdeburger also reported that a new pedestrian crossing light has been installed at Houston Street. She hopes that this will make it safer for pedestrians to cross the highway at that location and will work with DelDOT to help make our other non-traffic light crossings safer as well. Safe Streets for All was one of the issue chapters of the new Comprehensive Plan and the Town will be working on the action items set forth in the Comp Plan as we move forward.

Mayor Magdeburger said the Town has had a busy July with our birthday party, Bonfire and Fenwick Flicks. We hope everyone is enjoying the summer and all that Fenwick has to offer to its residents and guests.

**2. Approval of Minutes from June 23, 2023 Regular Town Council Meeting**

MOTION to approve the June 23, 2023 Regular Town Council meeting minutes.

*Moved by:* Bill Rymer

*Seconded by:* Richard Benn

**MOTION passed unanimously.**

**3. For Discussion and Possible Action:**

- 3.1 To proceed as discussed in the July 7, July 19 & July 28 Executive Meetings & Approve Executive Session Minutes

MOTION to proceed as discussed in the July 7, July 19 & July 28 Executive Meetings.

*Moved by:* Ed Bishop

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

MOTION to approve Executive Session meeting minutes.

*Moved by:* Jacque Napolitano

*Seconded by:* Ed Bishop

**MOTION passed unanimously.**

**3.2 Approval of GFL Contract**

Treasurer Rymer reported there is a 3 year agreement that includes a 3% annual increase which is consistent with the budget passed. The pricing is reasonable and consistent.

MOTION to approve the GFL Contract.

*Moved by:* Richard Benn

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

**3.3 Approval of Wagamon Technology Group LLC Contract**

Town Manager Schuchman reported the contract was for July 2023-July 2024 in the amount of \$1,315.19 per month.

MOTION to approve the Wagamon Technology Group LLC Contract.

*Moved by:* Richard Benn

*Seconded by:* Natalie Magdeburger

**MOTION passed unanimously.**

**3.4 Nomination of Ann Riley to complete term of Bob Warburton on Board of Adjustments**

Bob Warburton has submitted his resignation from the Board of Adjustments and the Infrastructure Committee. His term has not yet been completed on the Board of Adjustments. Mayor Magdeburger nominated Ann Riley to fulfill his requirements for the Board of Adjustments.

MOTION to approve Ann Riley to complete the term of Bob Warburton on the Board of Adjustments.

*Moved by:* Richard Benn

*Seconded by:* Jacque Napolitano

Ann Riley was sworn in.

**3.5 Infrastructure: Removal of Bob Warburton from Committee**

Bob Warburton was removed from the Infrastructure Committee due to his resignation.

**3.6 Police Chief Update**

Mayor Magdeburger reported that a contract was extended to Michael Morrissey and he has accepted the contract.

Mayor Magdeburger explained that the position was advertised locally and regionally with a written and oral component to the applicants. The first round of interviews was conducted by 3 local police chiefs who had agreed to assist the Town. Mr. Morrissey had observations he had made as well as a plan to assist with safety. He worked for Wilmington Police Department for 20 years and spent most of his time in Highway Safety. Mr. Morrissey has been working for Amtrak since 2009. Mayor Magdeburger welcomed Mr. Morrissey to the Town of Fenwick Island.

MOTION to ratify the contract that was offered to Michael Morrissey to begin serving as Fenwick Island Police Chief on September 1, 2023.

*Moved by:* Natalie Magdeburger

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

**3.7 Residential Concerns: Approval of Memorial benches on Bunting Avenue**

Council Member Bortner discussed a motion from the Residential Concerns Committee Member Jack Pyne to place memorial benches every 3-4 blocks on Bunting Avenue. He had noticed that it was harder for some citizens to take a leisurely walk down Bunting. Building Official Locke explained his main concern was the rights-of-way on Bunting Avenue were small. He said there was space on each beach parking lot to set a bench on the non-parking side. The motion was

tabled to be reset on a later agenda to investigate prices and more information.

3.8 **Residential Concerns: Approval of Banners in Honor of Fallen Veterans, Firefighters or Police to be displayed during Patriotic Holidays on Coastal Hwy**

Council Member Bortner reported Jack Pyne also presented another motion to bring to Council in regard to banners for Fallen Veterans, Firefighters and Police to be displayed for Patriotic Holidays. She said that after speaking with Town Manager Schuchman and Building Official Locke she learned that Verizon does not allow anything hung on their poles and Delmarva Power charges for their poles to be used. Building Official Locke suggested putting them at Town Hall on the existing banner holders that are changed seasonally. Council Member Bortner said that they would look into prices and get more information.

3.9 **Environmental: Approval of Letter to Delaware Legislators**

Committee Member Vicki Carmean reported the Environmental Committee is involved in opposing wind turbines. A letter was put together to send to legislators in April letting them know of the consequences of the wind turbines in water. The Committee is seeking permission to email the letters to legislators. Mayor Magdeburger said that as long as the Committee reviews and approves them that would be fine. If they needed a letter from Council or the Mayor then the Committee could bring it back to Council. Mayor Magdeburger reported that Ocean City is commissioning a study on the economic impact that might be expected if wind farms are placed as proposed. The study appears to be looking at a variety of factors including tourism and effects on the fishery businesses. Susan Brennan suggested adding Ocean City's proposed study into any letter sent to the legislature.

3.10 **Information Technology: Update Town Website**

Lisa Lange presented and explained what the new Town website will look like and how it will function. She said that



the Committee/Town are looking at an October timeframe for a usability test.

MOTION to approve website design and move forward in the process.

*Moved by:* Natalie Magdeburger

*Seconded by:* Jacque Napolitano

**MOTION passed unanimously.**

#### **4. Treasurer's Report - Treasurer Rymer**

Treasurer Rymer reported June's operating results were consistent with expectations since the Town anticipated making large payments to the construction company related to the sidewalk project and realizing the revenues will slow down in June and July while expenses will increase particularly related to payroll and a full month of lifeguard coverage.

For the month of June, the Town's overall cash balance decreased to just below \$4.9 million. The decrease was driven by \$360,000 of payments for sidewalks. Normally, the Town receives an RTT transfer from Sussex County each month but there was a delay in the County's processing. As a result, \$45,000 was not received until the first week of July. Had these funds been received on time, the cash balance would have been more than \$4.9 million at month-end.

Year-to-date revenues remain above budget but the month of June only saw \$3,500 of new building permits. Both June and July typically see a drop off in new building permits but will likely uptick again in August when homeowners prepare for the Fall construction period.

Year-to-date operating income was approximately \$220,000 and he expects the full year operating income will beat the original budget by at least \$200,000.

RTT revenues totaled \$9,750 for the month and are now just short of \$500,000 for the first eleven months as compared to a budget of only \$150,000 for the full year.

Treasurer Rymer said he would provide more detail during the Dredge Committee update but the town was provided a \$300,000 grant for dredging. We have formally requested these funds and expect the transfer in the next thirty days.

As previously mentioned, he expects to significantly beat the original operating budget by \$200,000 and anticipates having more cash on-hand than budgeted as well as beating the cash forecast used as the baseline for the 2024 Budget.

It has been a very strong year for our Town as compared to the original Budgeted cashflows and operating projections.

**6. Committee Reports: Audit, Beach, Budget & Finance, Building Review, Business Concerns, C&O, Dredging, Emergency Mgmt., Environmental, Information Technology, Infrastructure, Planning Commission, Residential Concerns, Pedestrian Safety, Town Enhancement, 70th Birthday Committee**

**Beach-** Secretary Napolitano reported the Town Bonfire was a huge success. She thanked the Beach Committee and lifeguards along with Public Works for setting up. Fenwick Flicks was also a success. The animal dune crossing signs will be moving to the west side of the dune out of the way of the view of the benches.

**Building Review-** Council Member Benn reported the Committee approved the site plans for Surf Bagel and everything was a go.

**C&O-** Mayor Magdeburger reported there would be a meeting in August. They will be working on cannabis issues- drafting an ordinance to prohibit sale in Town and continuing to look at the Rental policy issue.

**Dredging-** The Town was recently awarded a \$300,000 grant from the State Bond Bill. Representative Ron Gray remains a huge supporter of our town's efforts to have a successful project. Senator Hocker has also worked on behalf of this project. We have now raised \$1 million for this project which covers the estimated dredging costs.

We have exchanged another round of comments on the land access agreement to place dredged materials. We expect the final sediment lab results in the next two weeks. As long as those sample results are consistent with the original results, we expect to finalize that agreement. As many of you know, we are now in the public notification period related to the permit applications with both the US Army Corps of Engineers and DNREC. The US Army Corps period has already closed but the first of two

DNREC periods is still open through early August. Please provide letters of support to DNREC during this period. The third and last public notification period has not yet opened. We will continue to use the Town's email distribution list to communicate when these Public Notification periods are open.

In the interim, we have received two preliminary comments from the regulatory agencies.

One came from the US Army Corps and will require additional coordination with the property owner. This comment relates to the level of disturbance that will happen during the placement of material in GeoBags on the property. This comment seems unexpected since the impact of the upland placement efforts is less than that of residential development. However, they are a regulatory agency and we are working with the consultants on how best to resolve this comment.

The second preliminary comment was also unexpected but carries with it potentially very good news. This comment came from DNREC's Fish and Wildlife Division. Their initial reaction is that our project will not be restricted to specific dredging windows. If this holds true during the final reviews by both DNREC and US Army Corps, we would be able to dredge later into the Spring of 2024 if necessary. Hoping that additional time cushion is not needed by certainly happy to have it.

Our next dredging committee meeting will be scheduled as soon as we receive the final lab results.

### **Environmental-**

**Hands Across the Beaches--**A rally was held on Saturday, July 15 at 11:45 am at Town Hall with approximately 25 Fenwick Island supporters holding anti-wind farm signs, chanting, waving flags and clanging cow bells! The rally was a collective eastern seaboard event to create awareness and express concerns for the numerous impacts associated with OSW. There was news coverage on WBOC and front-page coverage on Coastal Point. Construction on wind farms off the coast of Nantucket (Vineyard Wind) and off the coast of Long Island (South Fork) have begun.

News from Ocean City Maryland

Regarding the US Wind, MarWin Project, the DRAFT Environmental Impact Statement is expected to be issued in August 2023. Once issued the public has 45 days to offer written comments.

OCMD's Town Manager has requested their Town Council to obtain an environmental engineering consultant to review the US Wind Construction



and Operations Plan and prepare comments on the Draft Environmental Assessment. This request has been approved.

This highly specialized contractor will assist with professional comment on the Draft EIS by reviewing items within US Wind's Construction and Operations Plan (COP) that impacts either the Town of Ocean City or the location of the turbines, and including impacts on the Horseshoe Crab, Right Whale, visual impacts, cultural and economic impacts and more.

The EC will keep the Fenwick Island stakeholders up to date on the release of the Environmental Impact Statement for the MarWin project through the town website. We will be engaging with Ocean City to assist in any way we can.

#### Correspondence to Delaware Law Makers

The Environmental Committee has authored correspondence regarding The Town's concern and opposition to the current plans for turbine installation in The Atlantic Ocean. We would like to submit this letter to Town Council for review and approval.

#### Monarch and Pollinator Way Station Update

The purpose of the garden is to support Monarch butterflies, a newly listed endangered species, as well as many other species of pollinators and birds in our region. The site is located on the north side of Lewes Street at the intersection of Bunting and Lewes. The site has been cleared and graded. We are now working with fence companies to obtain other design and material ideas and pricing. We have visited the Center for Inland Bays Nursery to begin plant stock ideas and have engaged with them to visit our site for recommendations.

As we are currently in the dog days of summer, the planter box building, filling, and planting will take place in the fall.

**Infrastructure-** Council Member Benn reported the Committee met this month and discussed the Listening Session set for August 31st at 2:30pm. They will be discussing the resiliency study and feedback for implementing the solutions AECOM has given.

**Planning Commission-** The commission is working to complete the Annual Comprehensive Plan Report for OSP.

Additionally, over the past month, the Planning Commission has taken the next steps in the Comprehensive Plan process.

On June 26, the 2023 Draft Comprehensive Plan dated 06/16/2023 was submitted to the Director of Sussex County Planning and Zoning for review.

This is required prior to PLUS Review Application submittal.

On June 28, the Office of State Planning acknowledged receipt of the PLUS application for Fenwick Island's Comprehensive Plan Update. You have been assigned PLUS number 2023-07-12. On July 10, the commission received notification of PLUS Review date of July 26 from 9:45-10:00 am.

On July 21, the commission received comments from Jamie Whitehouse, Director of Sussex County Planning and Zoning.

On July 26, the commission attended the PLUS Review held by the Office of State Planning.

The 15-minute meeting was of an informal nature. The comments were broad, supportive, and constructive. The reviewers acknowledged the plan as well written and the early update of the 10-year plan demonstrates the Town's dedication to set the vision for Fenwick. The Commission can expect formal comments by August 23.

Office of State Planning explained the certification items that are required to be included in the final plan which include:

- \*The review comments from Sussex County Planning & Zoning
- \*The on-going public engagement should continue and include the PLUS and the State's formal comment process.
- \*Inclusion of the formal PLUS letter and the commission's response to be included. Additionally, OSP comments included a basic description of our plan and a reminder that any requests to rezone the land use map that will be included with our plan will require an amendment to the comp plan.

There were brief comments from DelDOT, Delaware Transit, DNREC, State Historic Preservation, and DSHA. Public participation in Town Hall: Scott Thomas- Southern Delaware Tourism, acknowledged the comprehensive plan and offered general resources.

**Residential Concerns-**Council Member Bortner reported at the last Committee Meeting Deborah Cowell gave a presentation titled Trees to Offset Storm Water.

In the Village-to-Village initiative, St. Matthew's by the Sea has volunteered to partner with the South Coastal to provide training. Council Member Bortner said you are able to sign up to volunteer or sign up someone that may benefit from the services.

The welcome packets are available with a lot of different type of information.

Council Member Bortner said there is an upcoming forum including architectural options and lighting for the Route 54 bridge. She encouraged residents to give feedback at the forum.

Council Member Bortner also congratulated all the committees that helped improve the quality of life in Fenwick Island.

**Pedestrian Safety-** Council Member Bishop said that the sidewalk project is officially completed with the installation of the flashing lights at Houston Street. The streetscaping at Essex and Georgetown looks good. The next meeting will be in September and invite Mike Locke to talk about the signage. The Committee also wanted to coordinate with the Planning Commission to implement the changes in the Plan. Mayor Magdeburger said that the Chamber of Commerce reached out to plan a sidewalk "opening" celebration and asked the Pedestrian Safety Committee to help coordinate and plan.

**7. Old Business**

NONE.

**8. New Business**

Treasurer Rymer reported that Town Tax Bills would be in the mail the following week.

**9. Upcoming Events and Meetings:**

**10. Public Participation**

*Council welcomes community input but in order to work within FOIA policies and Zoom technology, public wanting to comment on issues should do the following. **1)** Raise hand to be recognized by the Chair (Town Hall participants first and then virtual attendees); **2)** Provide name and address; **3)** Direct comments to items covered by the agenda; **4)** Limit comments to 5 minutes*

Dave Reifschneider, 8 E. Essex Street- Mr. Reifschneider asked if there was anything in the contract to improve channel marking after dredging.

Treasurer Rymer responded that there was and DNREC/State of Delaware were contracted to pay.

Lynn Andrews, 1205 Schulz- Mrs. Andrews thanked the Council for all their hard work and dedication to the Town.

Natalie Magdeburger, 32 Ebb Tide Cove- Mrs. Magdeburger said that this Council's term, no matter the outcome of the election, would come to an end at the August meeting. She said that Fenwick Island is a beautiful Town and thanked everyone who had worked on the Town's behalf either as an employee or on a Town's committee.

**11. Executive Session**

*For preliminary discussion on site acquisitions for any publicly funded capital improvements; strategy sessions, including those involving legal advice or opinion for an attorney-at-law, with respect to collective bargaining or pending or potential litigation; discussion of the content of documents, excluded from the definition of "public record"; and personnel matters in which the names, competency and abilities of individual employees are discussed. Pursuant to 29 Del.C. § 10004(B)(2), (4), (6), & (9).*

**12. Adjournment**

MOTION to adjourn the meeting at 4:38pm.

*Moved by:* Ed Bishop

*Seconded by:* Richard Benn

**MOTION passed unanimously.**